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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,952	08/20/2001	Richard B. Sagar	US018113	4667

7590 02/10/2005

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EXAMINER

NALVEN, ANDREW L

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/931,952	Applicant(s) SAGAR, RICHARD B.	
	Examiner Andrew L Nalven	Art Unit 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/21/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-22 are pending.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 19-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The cited claims are directed towards a multilevel quality signal. A "signal" fails to meet the requirements of 35 U.S.C. 101 because it is a non-tangible structure.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 19-21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. With regards to claim 19, the claim provides the limitation "a second encoded component for use in enhancing the quality." The cited limitation appears to be the

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intended use of the second encoded component. The intended use of the component is not a property of the component and thus does not carry patentable weight.

5. With regards to claim 20, the provided limitation, "wherein the second encoded component is encoded for other than enhancing the quality of the low quality output signal in encoded form," effectively removes the limitation of its parent claim, "a second encoded component for use in enhancing the quality."

6. With regards to claim 21, the limitation requiring compatibility with standards for providing audio or video data without separating the encoded component is unclear because there does not appear to be a separation of components involved in the claim or its parents. Further, claim 21 includes the preceding limitations of claims 19-20 and as presently claimed, the components of claim 19 are already separated as they have been claimed as separate components.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-10 and 12-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsutsui US Patent No. 6,081,784. Tsutsui teaches a method for encoding, decoding, and encrypting an audio signal.

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9. With regards to claims 1, 12, 16, and 19, Tsutsui teaches providing a first component of a first signal (Tsutsui, column 13 lines 1-8, higher frequency range), providing a second component of the first signal (Tsutsui, column 13 lines 1-8, lower frequency range), encoding the first component to provide an encoded component (Tsutsui, column 13 lines 6-8, second signal component is encrypted), and combining the second component and the encoded component to provide the multilevel quality signal having a lower quality level component and having therein the encoded component for use in enhancing the quality level of the lower quality level component (Tsutsui, column 13 lines 15-27).

10. With regards to claims 2 and 22, Tsutsui teaches the step of encoding including the step of encrypting the first component (Tsutsui, column 13 lines 6-8, second signal component is encrypted).

11. With regards to claims 3 and 4, Tsutsui teaches the providing of a key for decrypting the encrypted component (Tsutsui, column 14 lines 33-46, key signal).

12. With regards to claim 5, Tsutsui teaches the step of separating the first component from the second component of the signal (Tsutsui, column 13 lines 1-8, input information signal split).

13. With regards to claims 6, 13, and 17-18, Tsutsui teaches the sampling of the first signal at a predetermined rate to generate a plurality of samples, each sample having a predetermined number of bits (Tsutsui, column 12 lines 20-34) and separating out a subset of the bits of each sample to provide the first component (Tsutsui, column 13 lines 1-8, input information signal split).

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14. With regards to claims 7 and 14, Tsutsui teaches the subset being a lower order bit portion of the samples (Tsutsui, column 13 lines 1-8, lower frequency range).

15. With regards to claim 8, Tsutsui teaches the step of separating the first component from the second component of the signal at known intervals (Tsutsui, column 13 lines 1-8, input information signal split).

16. With regards to claims 9 and 15, Tsutsui teaches the step of separating the first component from the second component of the first signal depends on predetermined periods of broadcasting of the first signal (Tsutsui, column 12 lines 20-34, time block).

17. With regards to claim 10, Tsutsui teaches the step of providing a high quality level signal for a period of time and simultaneously providing for another period of time the lower quality level component with the encoded component for use in enhancing the lower quality level of the lower quality component (Tsutsui, column 12 lines 57-67, Figure 14).

18. With regards to claim 20, Tsutsui teaches the second encoded component is encoded for other than enhancing the quality of the low quality output signal in encoded form (Tsutsui, column 5 lines 10-20, used to only allow high quality sound to possessors of key).

19. With regards to claim 21, Tsutsui teaches the multilevel quality signal being compatible with standards for providing at least one of audio and video data without separating the encoded component therefrom (Tsutsui, column 12 lines 57-67).

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsutsui US Patent No. 6,081,784 in view of Sakamoto et al US Patent No. 6,026,164.

22. With regards to claim 11, Tsutsui fails to teach the signal including more than two components and each further component being encoded and for use in further enhancing the quality level of the lower quality component. Sakamoto teaches to teach the signal including more than two components and each further component being encoded and for use in further enhancing the quality level of the lower quality component (Sakamoto, column 6 lines 52-61). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Sakamoto's method of splitting the signal into more than two components with Tsutsui's encoding system because it offers the advantage of ensuring that only privileged viewers may access high quality data because only they have access to proper decrypting means (Sakamoto, column 4 lines 13-15).

Conclusion

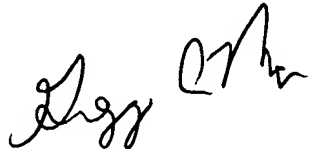
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew L Nalven whose telephone number is 571 272 3839. The examiner can normally be reached on Monday - Thursday 8-6, Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 571 272 3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew Nalven



GREGORY MORSE
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